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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,688	10/05/2000	Kenneth O. Lipscomb	26006.0001U3	8953

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NEEDLE & ROSENBERG P C  
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ATLANTA, GA 30303-1811

EXAMINER

PRIETO, BEATRIZ

ART UNIT PAPER NUMBER

2142

DATE MAILED: 05/05/2003

1/

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/679,688

Applicant(s)

LIPSCOMB ET AL.

Examiner

B. Prieto

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 13-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 25-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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***DETAILED ACTION***

1. This communication is in response to amendment filed 02/18/03, claims 1-27 remain pending, from which claims 13-24 are withdrawn from consideration and claims 1-12 and 25-27 are hereby presented for examination.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this case, limitation reads, "such management comprising..." being no management previously recited in the claim it is not clear what management the claim limitation refers to. Broadest interpretation to the claim will be applied (see MPEP §1206).

4. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-12 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Milsted et. al. (Milsted) U.S. Patent No. 6,345,256 in view of Reed et. al. (Reed) U.S. Patent No. 5,862,325.

Regarding claim 1, Misted teaches substantial features of the invention as claimed, teaching a system for distributing digital media assets (col 2/lines 61-64, col 3/lines 17-21) to a plurality of users (col 9/lines 54-65, Fig. 1, col 12/lines 9-24), comprising:

an electronic content(s) Store (col 13/lines 24-25, col 21/lines 32-38) (portal) including a server computer (103), (col 83/lines 3-6, col 74/lines 18-19, 31-41),

the server computer (103) including (col 14/lines 41-50) an server application (105) that manages access (management access right, col 10/lines 16-35, col 44/lines 20-27, authorize access, col 32/lines 57-59, control access right, col 14/lines 5-50, col 23/lines 49-52, 55-61) to a distribution facility (111) or

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provider (101) (master library) (access to a digital media assets col 13/lines 41-51 remote or local, col 20/line 8-9, access of media assets col 22/lines 19-22 to user) of digital media assets that can be accessed by users (col 21/lines 32-38) via a communication network (col 2/lines 50-55, col 25/lines 26-46); and

a plurality of media player devices (109) (col 14/lines 52-col 15/line 9) that communicate with the portal (103) to access digital media content assets (content 113) for use (col 21/lines 32-67) by the user,

the plurality of media player device (109) (col 14/lines 52-col 15/line 9, variety of devices, col 11/lines 66-col 12/line 7) comprising a client application (195) running on a end-user media player device(s) (109) (i.e. executed by a processor), (col 10/lines 60-62) that manages digital media content assets (manage, col 82/line 43-51, control, col 25/line 10-12, usage rights, col 10/line 20-35) to which purchased digital access rights (i.e. licensed) has been acquired for use by a user (col 24/lines 50-col 25/line 13, col 10/lines 20-35);

communicating, downloading or distributing those media assets to which the user has purchase digital access rights (i.e. licensed for used by a user) on the media player device for that user so that the user can access licensed media asset (i.e. synchronizing the media asset licensed for use by a user with the media available on the media player device for that user, e.g. downloading media assets licensed for used by a user with the media assets available on the media player for that user, i.e. synchronizing (purchase, download and receipt of media asset: col 21/lines 32-col 22/line 24 which the user has purchase digital access rights, distribution according to licensed rights, col 15/lines 30-34, 41-46, receipt of the media player device in accordance with licensed rights, col 14/lines 62-col 15/line 9, downloading media assets only according to purchased licensed rights, col 13/line 41-51, col 14/lines 5-20);

although Misted teaches communicating, downloading or distributing those media assets on the media library database server to which the user has purchase digital access rights (i.e. licensed for used by a user) on the media player device for that user so that the user can access licensed media asset, this is not called "synchronizing";

Reed teaches an automated system/method related to automatically updated the consumer computer with a provider computer through the communications system in order to maintain continuity of the relationship (i.e. synchronization), including a distribution and exchange control technique to ensure the versions of a communications object (i.e. multimedia) in a provider database and a consumer database stay synchronized, based on push techniques, i.e. automatic downloading initiated by the provider based on version monitoring or pull techniques, i.e. automatic retrieval initiated by the consumer based on version monitoring (col 91/lines 1-26), wherein when the pull technique of updating is used, the version monitoring method at the consumer program is able to determine missing communications object versions on a distribution server it executes a polling operation for

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each missing communications object from the distribution server, restoring synchronization between the provider and consumer (col 91/line 57-col 92/line 24);

It would have been obvious to one ordinary skilled in the art at the time the invention was made to implement Milsted's teaching to performed claimed invention including functional equivalent elements performing all claimed functions, with the teachings of Reed for synchronizing media assets, motivation would be utilize said electronic content store(s) site configured to operate as a gateway to manage access, sell and provide license digital media content to users using player devices configurable to play the license digital media content in accordance to license usage rights purchased by the user, as taught by Milsted.

Regarding 2, server application (105) of the portal manages usage rights of users to media assets (Milsted: manage, col 82/line 43-51, control, col 25/line 10-12, usage rights, col 10/line 16-35).

Regarding claim 3, server application (105) of the portal updates the client application (195) in the media player device to store information identifying those media assets that a user has licensed usage rights upon purchase (Milsted: col 10/lines 60-col 11/line 9).

Regarding claim 4, a user may have multiple media player devices (109) (Milsted: col 12/lines 52-56) from which the user desires to experience digital media assets (Milsted: col 11/lines 66-col 12/line 7), wherein updating includes providing a user with access to digital media assets to any media player device (Milsted: col 11/lines 66-col 12/line 7).

Regarding claim 5, plurality of media player devices comprise one device selected from a home electronic device group (Milsted: col 12/lines 52-56).

Regarding claim 6, a player device comprises a media player software application for allowing a user to control playback and usage of media assets (Milsted: col 11/lines 66-col 12/line 7, col 83/line 13-26, 43-51).

Regarding claim 7, the media player software application is portal to a variety of hardware platforms of media player devices (Milsted: col 82/lines 43-51).

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Regarding claim 8, the portal manages streaming of media assets purchased to the media player device (Milsted: streaming: col 81/lines 41-49, col 83/lines 7-10), wherein the media assets are remotely stored by sources to which the portal connects via a communication network (Milsted: col 21/lines 32-38, col 25/lines 26-46, col 2/lines 50-55).

Regarding claim 9, as discussed above and further wherein the portal manages downloading of media asset to the media player device for storage and use (Milsted: col 84/lines 53-col 85/line 3).

Regarding claim 10, wherein the portal generates and provides to an identifier (code) that is required to be entered into all of the user's media player devices before enabled for transactions/communication (operation) to the portal, and the portal electronically transmits a fill-in form or input request (control message) to each of the user's media player devices to require the user to follow such a code entry procedure (Milsted: col 78/lines 66-col 79/line 36, 49-56).

Regarding claim 11, wherein when a valid code is not entered into a user's media player device, the media player device is disabled for communication and/or transaction with the portal (Milsted: col 78/line 66-col 79/line 56).

Regarding claim 12, wherein the portal maintains an on-line database of media assets for users of media player devices lacking a database client application (Milsted: col 25/lines 45-52).

Regarding claim 25, this claim comprises limitation(s) discussed on claim 1, same rationale of rejection is applicable.

Regarding claims 26-27, these claims comprises limitation(s) discussed on claim(s) 3-4, same rationale of rejection is applicable.

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***RESPONSE TO ARGUMENTS***

6. Applicant (a) traverses all of office action's objection and rejections (see remarks page 2 to page 3), yet fails to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references when traversing all the rejections. Applicant's argument is specifically directed to the limitation added via amendment. Applicant indicated that support for the added limitation is found on page 17, lines 21-23 and page 18, lines 1-3. Thus according to applicant's interpretation of the cited supportive passages, instant invention utilized the synchronization between each database client application and media library database server application of the portal to access, verify and track media assets between individual media players and/or between media players and the portal.

Cited supportive disclosure reads: The client database in the media player and the master media library database communicate and interact to provide automatic replication and synchronization (page 17, lines 21-23. Users on any media player device may have access to assets on any other media player device associated with the account or of related users so long as licensing rights are tracked and managed (page 18, lines 1-5).

This is not found to be supportive of: "instant invention utilized the synchronization between each database client application and media library database server application of the portal to access, verify and track media assets between individual media players and/or between media players and the portal", nor is it claimed. The claimed term "synchronization" has been interpreted in light of the specification (see MPEP 1206).

7. Applicant's argument filed 02/18/03 has been fully considered but not rendered persuasive.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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9. Prosecution of this application is closed by means of this final office action § 1.113, applicant may request continued examination of the application by filing a Request for Continued Examination of under 37 CFR § 1.114 and providing the corresponding fee set forth in § 1.17(e) for the submission of, but not limited to, new arguments, an information disclosure statement, an amendment to the written description, claims, drawings, or new evidence in support of patentability. Or applicant whose claims has been twice rejected, may appeal from the decision of the administrative patent judge to the Board of Patent Appeals and Interferences under 35 U.S.C. §134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (703) 305-0750. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Mark R. Powell can be reached on (703) 305-9703. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-6606. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Any response to this final action should be mailed to:

**Box AF**

Commissioner of Patents and Trademarks  
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**or Faxed to:**

(703) 746-7238 for TC 2100 Official After-final communications; please mark  
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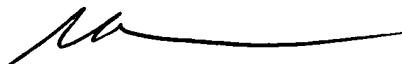
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(703) 306-5631 for TC 2100 Customer Service Office

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).



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